



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MEMORANDUM

Date: June 11, 2015

To: Robert Best, Chairman, & Members, Planning Board

From: Donna Pohli, Assistant Planner

Emily Edwards, Planning Intern

Subject: **Robert Lavoie (applicant) and Gregg R. Kennedy (owner)** – Review for acceptance and consideration of Final Approval of an application for a 2 –lot minor subdivision. The parcel is located at 8 Fuller Mill Road in the R-1 (Residential) District. Tax Map 4B, Lot 153.

Background: The subject property is an approximately 4.41 acre lot located at 8 Fuller Mill Road in the R-1 (Residential) District. The property is abutted by the Horse Hill Nature Preserve to the east and residential lots to the north, west, and south. According to the project narrative, both lots will be serviced by on site septic systems and private wells.

The applicant proposes to subdivide Lot 4B-153 into two residential lots (shown on the proposed plan as Lots 153 and 153-2). Proposed Lot 153 will be 3.48 acres and proposed Lot 153-2 will be 0.92 acres, which does not meet the R-1 (Residential) lot requirements of Section 3.02 of the Zoning Ordinance.

There is currently a barn and a shed on proposed lot 153-2 that are marked to be razed. However, there are also storage containers on the proposed lot line that will need to be addressed as these existing structures do not meet the R-1 lot and yard regulation setbacks and sit on the property line.

Tax Map 4B, Lot 153 was previously subdivided in 1997. On May 6, 1997 The Planning Board voted to approve the final subdivision plan of one parcel into two parcels. The subdivision of Lot 153 resulted in the creation of Lot 153-1 located at 2 Fuller Mill Road as shown on the proposed plan.

Completeness: Staff recommends that the Board vote to accept the application (should the Board be comfortable with having variances as conditions of approval), as it is substantially complete and contains sufficient information to invoke the Board's jurisdiction and to allow the Board to make an informed decision.

Waivers: Although none have been requested, staff recommends a sidewalk waiver per Section 4.06.1(r) of the Subdivision and Site Plan Regulations, or a determination under Section 4.07 that it is not necessary.

Recommendation: Should the Board determine that any waivers are required for the subdivision; Staff recommends that the Board vote with respect to any requested waivers utilizing the criteria from RSA 674:36:

- Strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations; or

- Specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out the spirit and intent of the regulations.

The planning staff recommends that the Board grant conditional final approval to the application with the following precedent conditions to be fulfilled within 6 months and prior to plan signing, unless otherwise specified:

1. Final plans to be signed by the Applicant and Property Owner;
2. Applicant to obtain relief from the Zoning Board of Adjustment to allow a lot that does not meet the lot requirements of Section 3.02 of the Zoning Ordinance; including front setback, area, frontage, and depth requirements;
3. Any waivers granted shall be listed with the section number and date of approval on the Final Plan;
4. Applicant shall address the following comment from the Public Works Department:
 - a. The existing stone wall that is located within the right of way should be shown on the plan;
5. Address any forthcoming comments from the Assessing and Fire Departments, including future numbering of the proposed lots and addressing requirements (as applicable);
6. Address planning staff technical comments. (Below)

Planning Staff Technical Comments

1. Applicant to add a note to the plan indicating that the plan is to be recorded at HCRD and that a copy is on file with the Community Development Department;
2. Applicant to add a note that the new lot is proposed to have a private well and septic system;
3. Applicant to indicate that the storage containers between lots 4B/153-2 and 4B/153 are to be razed or, the applicant shall obtain an agreement or easement for them to remain;
4. Applicant to add owners address to the title block of the plan;
5. Applicant to clearly indicate previous lot lines versus proposed lot lines on plan and in legend;
6. Applicant to revise note # 9 to include NHDES State Subdivision number and provide a copy to the Community Development Department;
7. Applicant to revise note # 12 to update Town Code #167 as the Stormwater Management Ordinance number.

Staff also recommends that the following general and subsequent conditions be placed on the approval:

1. The applicant is responsible for recording the plan (including recording fee and the \$25.00 LCHIP fee, check made payable to the Hillsborough County Treasurer) at the Hillsborough County Registry of Deeds. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department;
2. Any proposed easements and/or applicable legal documents shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant;
3. Applicant to obtain a right-of-way permit from the Highway Division for new driveways.

Ec: Robert Lavoie, Applicant
Gregg R. Kennedy, Owner
Kenneth C. Clinton, Land Surveyor
Carol Miner and Fred Kelley, Building Department
Kyle Fox, Deputy Director of Public Works/Town Engineer
John Manuele, Captain, Merrimack Fire Department
Loren Martin, Assessing Department

Cc: Planning Board File
Correspondence